

Federal Domestic Violence Laws



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ISSUES AND ANSWERS

Violence and abuse at the hands of a loved one is frightening, degrading and confusing. Have you experienced this violence and abuse? If so, you are a victim of domestic violence. You are also the victim of a crime.

Despite your conflicting emotions, the legal system may be one of the most effective ways to protect yourself and your children.

In 1994, Congress passed the Violence Against Women Act ("VAWA"). This Act, and the 1996 additions to the Act, recognize that domestic violence is a national crime and that federal laws can help an overburdened state and local criminal justice system. In 1994 and 1996, Congress also passed changes to the Gun Control Act making it a federal crime in certain situations for domestic abusers to possess guns. The majority of domestic violence cases will continue to be handled by your state and local authorities. In some cases, however, the federal laws and the benefits gained from applying these laws, may be the most appropriate course of action.

This brochure is designed to provide practical information on the available federal domestic violence laws and penalties and the rights of federal victims.

WHO SHOULD I CALL TO REPORT A POSSIBLE FEDERAL CRIME?

For a possible Gun Control Act violation, please call your local Alcohol, Tobacco and Firearms ("ATF") Office. For a possible VAWA violation, please call your local Federal Bureau of Investigation ("FBI") Office. These violations are described in this brochure. Space is provided on the back of this brochure for local assistance. If you are unsure of the violation, please call law enforcement or the Victim/Witness Coordinator listed on this brochure.

WHAT ARE THE FEDERAL CRIMES AND PENALTIES?

All the federal domestic violence crimes are felonies. It is a federal crime under VAWA:

- to cross state lines to physically injure an "intimate partner". 18 U.S.C. Section 2261
- to cross state lines to stalk or harass or to stalk or harass within the maritime or territorial lands of the United States (this includes military bases). 18 U.S.C. Section 2261A
- to cross state lines and violate a qualifying Protection Order. 18 U.S.C. Section 2262

It is a federal crime under the Gun Control Act:

- to possess a firearm and/or ammunition while subject to a qualifying Protection Order. 18 U.S.C. Section 922(g)(8)
- to possess a firearm and/or ammunition after conviction of a qualifying misdemeanor crime of domestic violence. 18 U.S.C. Section 922(g)(8)

A violation of the Gun Control Act, Sections 922(g)(8) and 922(g)(9), has a maximum prison term of ten years. A violation under VAWA, Sections 2261, 2261A and 2262, has a maximum prison term of five years to life, depending on the seriousness of the bodily injury caused by the defendant.

In a VAWA case, the Court must order restitution to pay the victim the full amount of losses. These losses include costs for medical or psychological care, physical therapy, transportation, temporary housing, child care expenses, lost income, attorney's fees, costs incurred in obtaining a civil protection order, and any other losses suffered by the victim as a result of the offense. In a Gun Control Act case, the Court may order restitution. Please keep a record of all expenses caused by the domestic violence crime.

WHAT IS A QUALIFYING DOMESTIC VIOLENCE MISDEMEANOR?

Possession of a firearm and/or ammunition after conviction of a "qualifying" domestic violence misdemeanor is a federal crime under Section 922(g)(9). Generally, the misdemeanor will "qualify" if the conviction was for a crime committed by an intimate partner, parent or guardian of the victim that required the use or attempted use of physical force or the threatened use of a deadly weapon. In addition, Section 922(g)(9) imposes other legal requirements. The United States Attorney's Office will examine your case and determine whether the prior domestic violence misdemeanor conviction qualifies under Section 922(g)(9)

WHAT IS A QUALIFYING PROTECTION ORDER?

Possession of a firearm and/or ammunition while subject to a Protection Order, and interstate violation of a Protection Order are federal crimes if the Protection Order "qualifies" under Sections 2262 and 922(g)(8). Generally, a Protection Order will qualify under federal law if reasonable notice and an opportunity to be heard was given to the person against whom the Court's Order was entered and if the Order forbids future threats of violence. The United States Attorney's Office can evaluate your Order to see if it qualifies. Therefore you should keep copies of all Orders.

WHO IS AN INTIMATE PARTNER?

Generally, the federal laws recognize an intimate partner as a spouse, a former spouse, a person who shares a child in common with the victim, or a person who cohabits or has cohabited with the victim.

CAN MY CONCERNS BE HEARD IN FEDERAL COURT?

A victim in a VAWA case shall have the right to speak, if desired, to the Judge at a bond hearing to inform the Judge of any danger posed by the release of the defendant. Any victim of a crime of violence shall also have the right to speak, if desired, at the time of sentencing.

FEDERAL CRIME VICTIM'S RIGHTS

A **federal** domestic violence victim has the following rights under 42 U.S.C. Section 10606(b)

- The right to be treated with fairness and with respect for the victim's dignity and privacy.
- The right to be reasonably protected from the accused offender.
- The right to be notified of court proceedings.
- The right to be present at all public Court proceedings related to the offense, unless the Court determines that testimony by the victim would be materially affected if the victim heard other testimony at trial.
- The right to confer with the attorney for the Government in the case.
- The right to restitution.
- The right to information about the conviction, sentencing, imprisonment and release of the offender.

HELP IS AVAILABLE

If you are a victim of a domestic violence crime it is normal to feel scared, helpless and vulnerable. Remember, you are not alone. The following agencies exist to help. Please call.

NATIONAL ASSISTANCE

Domestic Violence Hotline

1-800-799-SAFE

National Coalition Against Domestic Violence

1-303-839-1852

LOCAL ASSISTANCE

Police/Sheriff Department

Prosecutor's Office

Missouri State Highway Patrol

Domestic Violence Agency

Bureau of Alcohol, Tobacco & Firearms Office

314-539-7100

Federal Bureau of Investigation

314-231-4324

Missouri Coalition Against Domestic Violence

573-634-4161

Missouri Victim Assistance Network (MoVA)

1-800-698-9199

UNITED STATES ATTORNEY'S OFFICE VICTIM WITNESS UNIT

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